

AMENDED IN ASSEMBLY MARCH 31, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 145

Introduced by Assembly Member De Leon

January 22, 2009

An act to ~~add Section 34510.5 to~~ amend Section 34620 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 145, as amended, De Leon. Motor carriers: construction transportation brokers.

(1) Existing law requires the Department of Motor Vehicles to regulate the safe operation of specified vehicles, including commercial motor vehicles and trailer and semitrailer commercial vehicle combinations owned and operated by motor carriers. Existing law also requires every motor carrier of property to comply with specified safety, permit, and liability insurance regulations *and to pay the fees required by these provisions. A violation of these provisions is a crime.*

Existing law also prohibits a motor carrier of property from contracting or subcontracting with, or otherwise engaging the services of, another motor carrier of property, until the contracted motor carrier of property provides certification in the manner prescribed by the above provisions, of compliance with safety inspection, certificate, permit, and financial responsibility requirements. A violation of those provisions is a misdemeanor.

This bill would apply this prohibition to a broker of construction trucking services, as defined.

By expanding the scope of an existing crime, the bill would impose a state-mandated local program.

~~This bill would require a construction transportation broker, as defined, who agrees to transport or haul intrastate construction materials for another person or entity and who dispatches, hires, employs, or engages the services of a subhauler, as defined, to perform all or part of the agreement to furnish the construction transportation or hauling services, to enter into a specified written agreement with the subhauler and comply with specified safety, recordkeeping, and insurance requirements.~~

~~The bill would also make a violation of these provisions a misdemeanor and would subject the violator to a fine. By creating new crimes, the bill would impose a state-mandated local program.~~

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 34620 of the Vehicle Code is amended to
2 read:

3 34620. (a) Except as provided in subdivision (b) and Section
4 34622, ~~no~~ a motor carrier of property shall *not* operate a
5 commercial motor vehicle on any public highway in this state,
6 unless it has complied with Section 34507.5 and has registered
7 with the department its carrier identification number authorized
8 or assigned thereunder, and holds a valid motor carrier permit
9 issued to that motor carrier by the department. The department
10 shall issue a motor carrier permit upon the carrier's written request,
11 compliance with Sections 34507.5, 34630, and 34640, and
12 subdivisions (e) and (h) of Section 34501.12; for motor carriers
13 listed in that section, and the payment of the fee required by this
14 chapter.

15 (b) ~~No~~A person shall *not* contract with, or otherwise engage
16 the services of, a motor carrier of property, unless that motor carrier
17 holds a valid motor carrier of property permit issued by the
18 department. ~~No~~A motor carrier of property *or broker of*
19 *construction trucking services, as defined in Section 3322 of the*

Civil Code, shall *not* contract or subcontract with, or otherwise engage the services of, ~~another~~^a motor carrier of property, until the contracted motor carrier of property provides certification in the manner prescribed by this section, of compliance with subdivision (a). This certification shall be completed by the contracted motor carrier of property and shall include a provision requiring the contracted motor carrier of property to immediately notify the person to whom they are contracted if the contracted motor carrier of property's permit is suspended or revoked. A copy of the contracted motor carrier of property's permit shall accompany the required certificate. The Department of the California Highway Patrol shall, by regulation, prescribe the format for the certificate and may make available an optional specific form for that purpose. The certificate, or a copy thereof, shall be maintained by each involved party for the duration of the contract or period of service plus two years, and shall be presented for inspection at the location designated by each carrier under Section 34501.10, immediately upon the request of an authorized employee of the Department of the California Highway Patrol.

~~SECTION 1. Section 34510.5 is added to the Vehicle Code, to read:~~

~~34510.5. (a) The Legislature finds and declares that construction transportation brokers are in a unique position to protect the motoring public by ensuring that the safety provisions of this code, which impose safety regulations on motor carriers, including, but not limited to, BIT safety inspections pursuant to Section 34501.12, drug and alcohol testing pursuant to Section 34520, the necessity of a motor carrier permit under Section 34620, and liability protection under Section 34631.5, are complied with prior to the commencement of any construction work.~~

~~(b) "Construction transportation broker," as used in this section, means a person or entity that agrees to transport or haul intrastate construction materials for another person or entity and as part of the performance of that transportation or hauling agreement, dispatches, hires, employs, or engages the services of a motor carrier to perform all or part of that agreement. The term "construction transportation broker" also includes any motor carrier who dispatches, hires, employs, or engages another motor carrier to perform all or part of the construction transportation or hauling~~

1 ~~services that the motor carrier has agreed to render for a~~
2 ~~construction transportation broker.~~

3 ~~(e) “Subhauler,” as used in this section, means a motor carrier~~
4 ~~that is dispatched, hired, employed, or engaged by a construction~~
5 ~~transportation broker to perform all or part of the construction~~
6 ~~transportation or hauling services that the construction~~
7 ~~transportation broker has agreed to render.~~

8 ~~(d) “Construction transportation or hauling services,” as used~~
9 ~~in this section, means the for-hire hauling, transporting, or moving~~
10 ~~of rock, sand, dirt, asphalt, and gravel, or any other aggregate~~
11 ~~material, as defined in subdivision (d) of Section 23114, to, from,~~
12 ~~or on the site of the construction project by a motor carrier.~~

13 ~~(e) A construction transportation broker that dispatches, hires,~~
14 ~~employs, or engages a subhauler shall not furnish construction~~
15 ~~transportation or hauling services unless he or she enters into a~~
16 ~~written agreement with the subhauler that contains all of the~~
17 ~~following:~~

18 ~~(1) The name, address, and phone number of the broker and the~~
19 ~~subhauler.~~

20 ~~(2) All contract terms of the agreement including, but not limited~~
21 ~~to, the agreed upon price, term of engagement, and site location.~~

22 ~~(3) Written documentation, attached to the agreement, that shows~~
23 ~~that the subhauler is in compliance with all of the following:~~

24 ~~(A) Has a valid motor carrier permit pursuant to Section 34620.~~

25 ~~(B) Is currently enrolled in a drug and alcohol testing program~~
26 ~~as required pursuant to Section 34520.~~

27 ~~(C) The Biennial Inspection of Terminals Program (BIT)~~
28 ~~required pursuant to Section 34501.12.~~

29 ~~(D) Adequate protection against liability as required pursuant~~
30 ~~to Section 34631.5.~~

31 ~~(f) A construction transportation broker shall maintain the~~
32 ~~records of each written agreement required under subdivision (e)~~
33 ~~for a minimum of two years.~~

34 ~~(g) A construction transportation broker subject to this section~~
35 ~~shall maintain nonowned and hired commercial auto insurance~~
36 ~~coverage in the same amounts as the coverage required of motor~~
37 ~~carriers against liability pursuant to Section 34631.5.~~

38 ~~(h) (1) A construction transportation broker who furnishes~~
39 ~~construction transportation services in violation of subdivision (e)~~
40 ~~or (g) is guilty of a misdemeanor and subject to a fine in the amount~~

1 of two thousand dollars (\$2,000) in addition to any other penalties
2 established by federal or state law. Each agreement with a
3 subhauler that fails to comply with subdivision (c) shall constitute
4 a separate violation.

5 (2) A construction transportation broker who fails to maintain
6 records required pursuant to subdivision (f) is guilty of a
7 misdemeanor and subject to a fine in the amount of one thousand
8 dollars (\$1,000) in addition to any other penalties established by
9 federal or state law.

10 SEC. 2. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.